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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------|------------------|
| 09/672,821   | 09/29/2000  | John C. Lynch        | 7000-500             | 2252             |
| 27820  | 7590        | 10/18/2006           | EXAMINER             |                  |
| WITHROW & TERRANOVA, P.L.L.C.<br>P.O. BOX 1287<br>CARY, NC 27512 |             |                      | GEREZGIHER, YEMANE M |                  |
|  |             |                      | ART UNIT             | PAPER NUMBER     |
|  |             |                      | 2144                 |                  |

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/672,821

Applicant(s)

LYNCH ET AL.

Examiner

Yemane M. Gerezgiher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response received on 07/24/2006 has been entered. Claims 1-23 remain pending in this application.

### ***Response to Arguments***

2. Applicant's arguments filed 07/24/2006 have been fully considered but they are not persuasive.

→ The inventive entity argues that, "Chong never teaches the backup call server sending a request for information or receiving the requested information. Likewise, Galloway...does not teach the callback call server sending a request for information about an active connection and receiving the requested information" [Applicant's Remark, Page 3, ¶1].

<sup>1</sup> The examiner respectfully disagrees with such allegations. The already combined teachings of Chong and Galloway disclosed an active and a warm standby call servers receiving information regarding an active media connection and performed a monitoring function; and further transmitted completed

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<sup>1</sup> → **Note:** If further prosecution on the merits of this instant application is pursued, Applicant is strongly encouraged to further incorporate into the independent claims some details or features (if any) of the instant application to make a reasonably patentable variation over the applied prior art of record. It is examiner's position that inventive entity should amend the claims to cover a complete picture of the intended invention beyond the indistinguishable language (sending a request...and receiving a response...) as recited in the claims. The inventive entity should consider limitations directed to what actually triggers the initiation of a request by the backup server, limitations directed to the model of the switchover, limitations directed to the role of the active/primary call server in relation with the backup server, and limitations directed to the interconnectivity between the active and backup servers (if any). Examiner likes to remind applicant to point where in the specification such enabling written support may be found corresponding to any future potential amendment.

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inactive (non active media connection information) information to a “completed call archive”. It is obviously clear that the receiving information of active media connection information must have involved some type of initial request in order to receive and monitor an active media connection. [(See Chong, Abstract, Fig. 5, Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17) and (See Galloway, Abstract, Figs. 4-5, Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56)]. Thus, the combined teachings of Chong and Galloway meet the claimed limitation as recited in the claims.

→ The inventive entity further argues, “Ohran cannot be properly combined with Chong and Galloway because it is non-analogous art” [Applicant’s Remark, Page 3, ¶3].

The examiner disagrees with that contention. In response to applicant’s argument that Ohran is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, one can clearly see that Ohran is dealing with failover in a fault-tolerant computer system. Ohran disclosed a backup server initiating a request to receive information (mirroring) about call information and receiving the information at the backup server when an active server fail in recovering

information in a fault-tolerant computer system (see, Ohran, Title, Column 4, Lines 29-46, Column 15, Lines 19-24 and Column 24, Lines 37-43). Assuming *arguendo* that the applicant is correct that Ohran is not specifically in the exact field of endeavor (maintaining a record of an active media connection in a packet based telephony network), it is still examiner's position that the teaching of Ohran is applied at least for the reason that it maintains record of information by recovering server failure (primary server) via a backup computer system eliminating the need for time consuming copying of information from primary to secondary/backup server and vice versa in keeping the record synchronized [Ohran, Abstract, Column 3, Lines 43-48]. Note that the type of record recovered may vary, but the act of recovering remains analogous. Thus, Ohran is believed to be analogous, at least for the reasons set forth above.

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1, 6, 7-11, 12-15, 17-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) hereinafter referred to as Chong in view of Galloway (U.S. Patent Number 5,430,709) and further in view of Ohran et al. (U.S. Patent Number 5,812,748) hereinafter Ohran.

As per claims 1, 12, 13, 15 and 22, Chong disclosed a communication network including an active and standby call servers, the standby server becoming active upon failure of the active call server (See ABSTRACT) where the active server receiving signal from an interface server hereinafter referred to as a *"media gateway"*. The active call server *sending/receiving a request, to/from a media gateway, for information regarding said active media connection; and receiving said information.* ("The active call server may then send a request back to the *media gateway* requesting more information regarding the call and receiving the information..."). See Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17 and Figure 5.

Chong substantially disclosed the invention as claimed. However, Chong was silent about the information been an active media connection information. However, since the teachings of Chong are dealing with call information, the information is obviously information about an active voice communication between entities. Nevertheless, in analogues art, as evidenced by the teachings of Galloway, monitoring ongoing/established active media connection and

maintaining a call record of the active connections of calls between communication terminals, the information about the active media connection comprising plurality of detailed attributes specifying detailed call information of the caller and the callee associated with the ongoing or active media connection was known in the art at the time the invention was made. See Abstract, Figs. 4-5 (Galloway further disclosed identification of device originating a active media connection, duration of the active media connection, coding of the active connection and quality of service associated with the active media connection as in claims 8-11, 17-20) Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Galloway related to monitoring and recording active media connections and have modified the teachings of Chong related to a communication system having therein an active and backup call servers monitoring call establishment call information at a call setup stage in order to maintain a detailed record of active media connections related to the statistics of the active call information in both directions. See Column 1 Line 66 through Column 2 Line 1 and Column 9 Lines 15-42.

The already combined teachings of Galloway and Chong substantially disclosed the invention as claimed. However, failed to teach that the request originating from a backup call server to receive the information about the active

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media connection and receiving the information at the backup call server. However, as evidenced by the teachings of Ohran, a backup server initiating a request to receive information (mirroring) about call information and receiving the information at the backup server when an active server fail in recovering information in a fault-tolerant computer system known in the art at the time the invention was made (Ohran, Title, Abstract, Column 4, Lines 29-46, Column 15, Lines 19-24 and Column 24, Lines 37-43). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Ohran related to the direction of initiating a request been from the backup server and have modified the already combined teachings of Galloway and Chong in order to eliminate the need for time consuming copying of information from primary to secondary/backup server and vice versa in keeping the record synchronized (Ohran, Column 3, Lines 43-48).

As per claims 6 and 7, Chong disclosed an active call server storing the received information about active media connection in a *memory*. See Column 3, Lines 26-33.

As per claim 14, Chong disclosed a telecommunication network including an active and standby call servers, the standby server becoming active upon failure of the active call server. Chong disclosed *receiving an indication of a failure of a primary call server, said primary call server, prior to said failure, supporting said active media connection; responsive to said*



*receiving, sending a request, to a media gateway, for information regarding said active media connection; and receiving said information.* See ABSTRACT, Column 1, Lines 54-62, Column 4, Lines 28-36 and Column 5, Lines 6-32.

Chong substantially disclosed the invention as claimed. However, Chong failed to teach the information been an active connection information. However, as evidenced by the teachings of Galloway, monitoring ongoing/established active media connection and maintaining a call record of the active connections of calls between communication terminals, the information about the active media connection comprising plurality of detailed attributes specifying detailed call information of the caller and the callee associated with the ongoing or active media connection. See Abstract, Figs. 4-5 (Galloway further disclosed identification of device originating a active media connection, duration of the active media connection, coding of the active connection and quality of service associated with the active media connection as in claims 8-11, 17-20) Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Galloway related to monitoring and recording active media connections and have modified the teachings of Chong related to a communication system having therein an active and backup call servers monitoring call establishment call information at a call setup stage in order to

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maintain a detailed record of active media connections related to the statistics of the active call information in both directions. See Column 1 Line 66 through Column 2 Line 1 and Column 9 Lines 15-42.

However, the already combined teachings of Gallows and Chong failed to teach that the request originating from a backup call server to receive the information about the active media connection and receiving the information at the backup call server. However, as evidenced by the teachings of Ohran, a backup server initiating a request to receive information (mirroring) about call information and receiving the information at the backup server when an active server fail in recovering information in a fault-tolerant computer system known in the art at the time the invention was made (Ohran, Title, Column 4, Lines 29-46, Column 15, Lines 19-24 and Column 24, Lines 37-43). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Ohran related to the direction of initiating a request been from the backup server and have modified the already combined teachings of Galloway and Chong in order to eliminate the need for time consuming copying of information from primary to secondary/backup server and vice versa in keeping the record synchronized (Ohran, Column 3, Lines 43-48).

5. Claims 2-5, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) in view of

Galloway (U.S. Patent Number 5,430,709) in view of Ohran et al. (U.S. Patent Number 5,812,748) and further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

With respect to the claim rejection applied to claims 1 and 15 above, the combined teachings of Chong, Galloway and Ohran disclosed the invention as claimed. However, the already combined teachings of Chong and Galloway is silent about the specific protocol used from a possible communication protocols such as SNMP (Simple Network Management Protocol), MGCP, SIP (Session Initiation Protocol) which are used to acquire information between the active and or the backup call servers and interfacing servers (media gateways).

However, the protocols mentioned above were well known in the art at the time the invention was made. In fact SNMP (Simple Network Management Protocol) *is used to read and write (set) information on network devices, which is a standard for gathering statistical data about network traffic and the behavior of network components; SNMP uses management information bases (MIBs), which define what information is available from any manageable network device.* MGCP (Media Gateway Control Protocol) *is a protocol for IP telephony that enables a caller with a PSTN phone number to locate the destination device and establish a session also known as IETF RFC 2705* and further SIP (Session initiation protocol) *is an Internet standard specified by the Internet Engineering Task Force (IETF) in RFC 2543. SIP is used to initiate, manage, and terminate interactive sessions between one or more users on the Internet. SIP, which*

*borrows heavily from HTTP and the e-mail protocol SMTP, provides scalability, extensibility, flexibility, and capabilities for creation of new services. SIP is increasingly used for Internet telephony signaling, in gateways, PC phones, softswitches, and softphones. For example See (U.S. Patent Number 6,584,186), issued to Aravamudan et al disclosed the use of the claimed protocols (See Column 1, Line 55 through Column 2, Line 5 and Column 13, Lines 50-57).*

The use of the protocols disclosed above was commonly known and used in the art of VOIP, which is an arbitrary choice of an ordinary skill in the art when developing or establishing a communication session in a voice communication network. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take those commonly and widely implemented protocols related to obtaining or transmitting information between network devices and have modified the already combined teachings of Chong, Galloway and Ohran in order to facilitate the transmission of information between devices in a telephony network.

6. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arango et al (U.S. Patent Number 6,724,747) hereinafter referred to as Arango in view Ohran et al. (U.S. Patent Number 5,812,748).

Arango disclosed a method and system for media connectivity over a *packet-based network, a telephone station apparatus a media gateway communicatively connected to a telephone station apparatus and a data network*

*and connected to media gateway controller or connection manager* for establishing a connection between first media gateway and a second media gateway. See Figures 1-5, Column 1, Lines 45-60 and Column 2, Lines 5-24. Since a media gateway is a computer device or a computer program run on a computer device that translates between two dissimilar protocols, a media gateway comprising a receiver to receive data from first network and to process the received data using a processor connected to the receiver and to transmit the processed data to a second network through a transmitter connected to a processor is inherently disclosed by Argon's described media gateway.

Arango substantially disclosed the invention as claimed. However, failed to teach that the request originating from a backup call server to receive the information about the active media connection and receiving the information at the backup call server. However, as evidenced by the teachings of Ohran, a backup server initiating a request to receive information (mirroring) about call information and receiving the information at the backup server when an active server fail in recovering information in a fault-tolerant computer system known in the art at the time the invention was made (Ohran, Title, Column 4, Lines 29-46, Column 15, Lines 19-24 and Column 24, Lines 37-43). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Ohran related to the direction of initiating a request been from the backup server and have modified the already combined teachings of Arango in order to eliminate the need for time consuming copying

of information from primary to secondary/backup server and vice versa in keeping the record synchronized (Ohran, Column 3, Lines 43-48).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

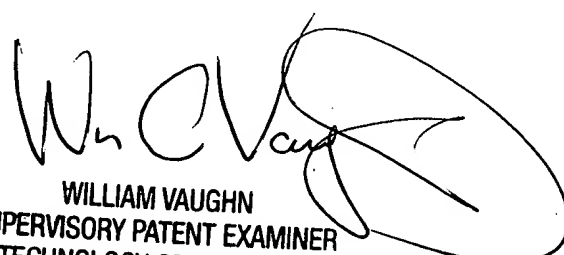
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yemane M. Gerezgiher whose telephone number is (571) 272-3927. The examiner can normally be reached on 9:00 AM - 6:00 PM Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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